

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 284 - HB 1143

April 22, 2021

SUMMARY OF ORIGINAL BILL: Enhances the penalty for a third or subsequent driving a motor vehicle while the privilege is cancelled, suspended or revoked offense in a 10-year period to a Class E felony.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$4,337,700 Incarceration*

Decrease Local Expenditures – \$359,100/FY21-22 and Subsequent Years

SUMMARY OF AMENDMENT (007538): Deletes all language after the enacting clause. Expands the first and second and subsequent driving a motor vehicle while the privilege is cancelled, suspended or revoked offense to include aggravated vehicular assault and aggravated vehicular homicide. Enhances the penalty for a third or subsequent driving a motor vehicle while the privilege is cancelled, suspended or revoked offense in a 10-year period to a Class E felony when each of the prior offenses and the current offense occurred when the person's driver license was cancelled, suspended, or revoked because of a conviction for: vehicular assault, aggravated vehicular assault, vehicular homicide, aggravated vehicular homicide, or driving while intoxicated.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Based on information provided by the Department of Correction, there has been an average of .8 aggravated vehicular assault admissions and 5.2 aggravated vehicular homicide admissions each year over the past five years. Any fiscal impact resulting from expanding first or certain second or subsequent offenses of driving a motor vehicle while the privilege is cancelled, suspended or revoked offense to include such offenses is estimated to be not significant.
- Pursuant to Tenn. Code Ann. § 55-50-504(a)(2) a second or subsequent offense of driving a motor vehicle while the privilege is cancelled, suspended, or revoked is a Class A misdemeanor offense.

- Based on information provided by Administrative Office of the Courts, there has been an average of 655.8 Class A misdemeanor convictions for second or subsection violations of driving while the privilege is cancelled, suspended, or revoked each year over the last five years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there is a total of 6,558 convictions ($655.8 / 10\%$) per year for Class A misdemeanor violations of driving while privilege cancelled, suspended, or revoked.
- This analysis assumes 5 percent, or 327.9 ($6,558 \times 5\%$), of convictions are third or subsequent driving while the privilege is cancelled, suspended, or revoked because of a conviction for: vehicular assault, aggravated vehicular assault, vehicular homicide, aggravated vehicular homicide, or driving while intoxicated in the last 10 years that will result in Class E felony admissions.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 27.2 ($327.9 \times 8.3\%$) additional admissions for a total of 355.1 ($327.9 + 27.2$).
- According to the DOC, 30.79 percent of offenders will re-offend within one year of their release. A recidivism discount of 30.79 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under the proposed legislation ($355.1 \text{ offenders} \times 30.79\% = 109 \text{ offenders}$).
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The average time served for a Class E felony is 0.60 years.
- Pursuant to Tenn. Code Ann. § 9-4-210, 246 ($355 - 109 \text{ recidivism discount}$) offenders will be admitted every year serving 219.15 days (0.60×365.25). The annualized increase in state incarceration expenditures is estimated to be \$4,337,671 ($\$80.46 \times 219.15 \times 246$).
- This analysis assumes individuals convicted of a Class A misdemeanor offense of third or subsequent offense of driving a motor vehicle while the privilege is cancelled, suspended, or revoked are spending an average of 15 days in local jail.
- Based on the 2020 Fiscal Review Committee survey, the weighted average cost to local governments to house an inmate in a local jail facility is \$73 per day.
- The proposed legislation will result in a recurring decrease in local incarceration expenditures estimated to be \$359,051 ($\$73 \times 327.9 \text{ offenders} \times 15 \text{ days}$) in FY21-22 and subsequent years.
- Any impact on driver license fee revenue or Department of Safety expenditures is estimated to be not significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid.

Krista Lee Carsner, Executive Director

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